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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,062	07/10/2003	Brian Muscat	706598US1	2644

7590 09/09/2004

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,062

Applicant(s)

MUSCAT ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 7, 8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Engle. The mention of power steering in the preamble does not breathe life into the body of the claim and therefore holds no patentable weight, and such is also merely intended use. The patent to Engle discloses an article for use with a automobile hose that will inherently have damping properties in that it will prevent extra noise from the hose hitting items by holding it still, the article comprising a hose member 30 having first and second ends, a damper structure 12 disposed between ends of the hose, the damper comprising a cylindrical main body having a longitudinal axis, a bore formed in the main body along the longitudinal axis, the bore receives the tube member, a slot 20 is provided extending from the outer surface of the main body and terminating in the bore, the width of the slot is smaller than the diameter of the bore, the hose is made of flexible material and engages the bore, the main body is made from a

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rigid material, the diameter of the bore is approximately equal to the outer diameter of the hose.

Claims 1-4, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Opperthausen. The mention of power steering in the preamble does not breathe life into the body of the claim and therefore holds no patentable weight, and such is also merely intended use. The patent to Opperthausen discloses an article for use with a hydraulic hose which is considered the equivalent of a power steering hose which is also hydraulic that provides damping properties, the article comprising a hose member 14 having first and second ends, a damper structure 42 disposed between ends of the hose, the damper comprising a cylindrical main body having a longitudinal axis, a bore formed in the main body along the longitudinal axis, the bore receives the tube member, a slot formed by edges 48,50 is provided extending from the outer surface of the main body and terminating in the bore, the width of the slot is smaller than the diameter of the bore, the hose is made of flexible material and engages the bore, the main body can be formed with a flat planar surface near 100 or along its sides, and the diameter of the bore is approximately equal to the outer diameter of the hose.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 9, 11, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oppertthausen. The patent to Oppertthausen discloses all of the recited structure with the exception of providing the planar surface near the slot, the diameter of the bore being smaller than the hose or the hose having a larger diameter than the bore, and the method of compressing the hose to pass it into the slot rather than opening the main body. It is considered to be a mere choice of mechanical design to provide the planar portion on any part of the body where such would only require a change in shape of the main body and would only require routine skill in the art, where such would reduce the extend of the main body and thereby save space. The change in dimensions of the diameter of the bore or hose are considered merely mechanical expedients where one skilled in the art would only require routine experimentation to arrive at optimum size values. With respect to the method it is considered merely a reversal of steps to compress the hose to fit it through the slot rather than opening the slot as such is merely a reversal of the steps where such would only require routine skill in the art to understand that the hose could be collapsed instead of forcing open the main body to get the hose into the bore.

Conclusion

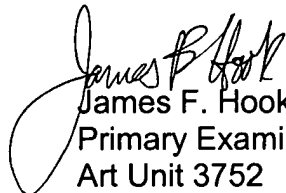
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Miller, Fisher, Knight, Boden, Collins, Bornhoffer, Buchholz, Nicholson, Bradshaw, Kalkman and Beatty disclosing state of the art dampers and hose covers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3752

JFH